

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Joseph H. Pratt, #9901834,)	C/A No. 9:05-3197-JFA-GCK
)	
Plaintiff,)	
v.)	ORDER
)	
Barbara Connell, Victim; Richard Connell, Sr.,)	
Victim; Richard Connell, Jr., Victim; Jenny)	
Daily, Investigator form Sumter County)	
Police Department; Patty Patterson, Chief of)	
Sumter County Police Department; O.V.)	
Player, Clerk of Court for Sumter County;)	
Deborah A. Mathis, Clerk of Court for Sumter)	
County in 2004; James C. Campbell, Clerk of)	
Court for Sumter County; Simon Major,)	
Director of Sumter-Lee Regional Detention)	
Center; All Sumter-Lee Regional Detention)	
Center Employees; and C. Kelly Jackson,)	
Head Solicitor,)	
)	
Defendants.)	
_____)	

This matter is before the court for review of the Magistrate Judge's Report and Recommendation made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is

charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b)(1).

The *pro se* plaintiff is pre-trial detainee at the Sumter-Lee Regional Detention Center in Sumter, South Carolina. The plaintiff brings this action pursuant to 42 U.S.C. § 1983 regarding matters in his pending state criminal case, and his medical care, mail, and lock-down status at the Sumter-Lee Regional Detention Center.

In a detailed Report and Recommendation, the Magistrate Judge recommends that the complaint is subject to summary dismissal of the claims regarding his pending criminal case because a right of action has not yet accrued. *Heck v. Humphrey*, 512 U.S. 477 (1994). As to the plaintiff's claims against the defendants listed as victims, the Magistrate suggests that these private citizens are entitled to summary dismissal because of witness immunity. *Briscoe v. LaHue*, 460 U.S. 325, 327-346 (1983). As to the claims against defendant C. Kelly Jackson, the Magistrate recommends dismissal because this defendant has absolute prosecutorial immunity as to the plaintiff's criminal case. With regard to the claims against the Clerks of Court, these defendants are entitled to summary dismissal under the Eleventh Amendment. Finally, the Magistrate Judge opines that regarding the plaintiff's claims about his medical care, mail, and lock-down status, such claims are subject to summary dismissal because his grievances are still pending and have not been exhausted under the Prison Litigation Reform Act, 42 U.S.C. § 1997e(a).

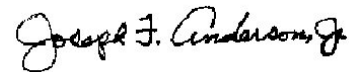
The plaintiff was advised of his right to file objections to the Report and Recommendation, which was entered on the docket on November 22, 2005. On December 2, 2005, the plaintiff filed an objection to the Report which merely attached copies of the grievance forms he submitted to the Sumter-Lee Regional Detention Center. There is no response from prison officials on these forms.

After carefully reviewing the applicable law, the record in this case, the Report and Recommendation, and the objections thereto, the court agrees with the Magistrate Judge's recommendation and incorporates the Report herein by reference. The court will also deem this action a "strike" for purposes of the "three strikes" rule of 28 U.S.C. § 1915(g).

Accordingly, this action is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.

December 13, 2005
Columbia, South Carolina

A handwritten signature in black ink, reading "Joseph F. Anderson, Jr." in a cursive script.

Joseph F. Anderson, Jr.
United States District Judge